

EXHIBIT A

11/20/2024

Richard Kadrey, et al. v. Meta Platforms, Inc. Michael Clark 30(b)(6), Vol III
Highly Confidential - Attorneys' Eyes Only

Page 204

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RICHARD KADREY, ET AL.,)
INDIVIDUAL AND REPRESENTATIVE)
PLAINTIFFS,) LEAD CASE NO.
v.) 3:23-cv-03417-VC
META PLATFORMS, INC.,)
DEFENDANT.)
)

* * * H I G H L Y C O N F I D E N T I A L * * *
* * * A T T O R N E Y S ' E Y E S O N L Y * * *

VIDEO-RECORDED 30(B)(6) DEPOSITION OF
MICHAEL CLARK
VOLUME III
WEDNESDAY, NOVEMBER 20, 2024
SAN FRANCISCO, CALIFORNIA
9:38 A.M. PST

REPORTED BY AUDRA E. CRAMER, CSR NO. 9901

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11/20/2024

Richard Kadrey, et al. v. Meta Platforms, Inc. Michael Clark 30(b)(6), Vol III
Highly Confidential - Attorneys' Eyes Only

Page 348

1 sharing the content outside. This could be
2 legally not okay."

3 A. Okay.

4 Q. So maybe I'm misunderstanding, but I
5 thought you said that Bashlykov said that they
6 did use torrents, and I'm just trying to
7 confirm -- this document suggest that they did a
8 direct file upload -- if that's different than
9 what he testified to. I'm just trying to
10 understand.

11 A. Let me read in context the other parts
12 of his notes here.

13 Okay. Apologize. I was confused by
14 the page order.

15 Q. That's okay.

16 A. Do you mind asking that question once
17 again?

18 Q. Yeah. So I believe you've testified
19 that you spoke with Bashlykov and that he said
20 that they downloaded LibGen through torrent.

21 Is that correct?

22 A. That is correct.

11/20/2024

Richard Kadrey, et al. v. Meta Platforms, Inc. Michael Clark 30(b)(6), Vol III
Highly Confidential - Attorneys' Eyes Only

Page 349

1 Q. This says, "Decided to go with direct
2 file upload without using torrents for the
3 following reasons: Using torrents would entail
4 seeding the files, sharing the content outside.
5 This could be legally not okay."

6 So how did Meta obtain and copy LibGen?

7 MS. HARTNETT: Object to the form.

8 THE WITNESS: So I spoke with
9 Bashlykov. We used libtorrent and the torrent
10 protocol for downloading. We had tried to
11 download a few different ways. One of them
12 included doing it via direct downloads where
13 there were individually hosted files in
14 different places and saw many issues with that
15 where files wouldn't exist, it was too slow or
16 would error out.

17 Also tried -- well, actually, the other
18 only other option was downloading via torrent,
19 and --

20 BY MS. POUEYMIROU:

21 Q. And that's what you did?

22 A. That's what we did. And the library

11/20/2024

Richard Kadrey, et al. v. Meta Platforms, Inc. Michael Clark 30(b)(6), Vol III
Highly Confidential - Attorneys' Eyes Only

Page 350

1 that we used using, LibGen -- sorry --
2 libtorrent for downloading LibGen, Bashlykov
3 modified the config setting so that the smallest
4 amount of seeding possible could occur.

5 Q. What does that mean?

6 A. When you use a torrent protocol, part
7 of the configuration on how torrents work is you
8 can only download as long as you offer to
9 participate in the torrent network in some way,
10 and seeding means that you have to open up some
11 amount of sharing of the torrent file while
12 you're downloading.

13 Q. So why did Meta decide to minimize
14 seeding the files?

15 Is it because it was concerned that
16 that was legally not okay, to quote this
17 document?

18 MS. HARTNETT: Objection to the form.

19 And to the extent it calls for any
20 attorney-client privilege, please don't reveal
21 that.

22 THE WITNESS: Yeah, I do not know what

11/20/2024

Richard Kadrey, et al. v. Meta Platforms, Inc. Michael Clark 30(b)(6), Vol III
Highly Confidential - Attorneys' Eyes Only

Page 351

1 Nikolay means in here by "legally not okay." I
2 know that legal did provide advice, which I
3 can't share. I can share what the setting was.

4 BY MS. POUEYMIROU:

5 Q. Is Bashlykov a lawyer?

6 A. No.

7 Q. Okay. So you ended up using torrent,
8 but you minimized seeding the files?

9 A. To the lowest possible setting, yes.

10 Q. Are you familiar with anti-leeching
11 protocol?

12 A. I've heard the term before.

13 In which context?

14 Q. In the context of -- with respect to
15 seeding the files.

16 Is there a relationship what Meta was
17 doing by minimizing the seeding of file with
18 leeching?

19 A. Could you be more specific?

20 Q. How do you understand anti-leeching?

21 A. I don't -- I didn't prepare on it
22 today. I would only know from my just own

11/20/2024

Richard Kadrey, et al. v. Meta Platforms, Inc. Michael Clark 30(b)(6), Vol III
Highly Confidential - Attorneys' Eyes Only

Page 357

1 MR. STEIN: On the shadow libraries?

2 MS. HARTNETT: On the sharing of how
3 much sharing or non-sharing of data was
4 accomplished by the downloaded method.

5 MR. STEIN: Okay. Well, if the shadow
6 library was being downloaded and required Meta
7 to also be uploading the data at the same time
8 and kind of compound the infringement here, I
9 think it's very much in the scope.

10 MS. HARTNETT: I think he's not -- I
11 don't read the topics to include that nor I
12 don't think reasonably put him on notice, but he
13 can answer.

14 I'm not going to try to stop him from
15 answering, I'm just saying that I think that's
16 kind of beyond -- going to the edge of the topic
17 at best.

18 BY MS. POUEYMIROU:

19 Q. So how would we find out how much data
20 was shared?

21 A. I do not know. I don't have those
22 details.

11/20/2024

Richard Kadrey, et al. v. Meta Platforms, Inc. Michael Clark 30(b)(6), Vol III
Highly Confidential - Attorneys' Eyes Only

Page 394

1 record just say one thing?

2 With respect to your questioning about
3 seeding, kind of without arguing about whether
4 it's under 1 or 7, Mr. Bashlykov will be the
5 30(b)(6) witness for Topic 7, and he's prepared
6 to talk about the seeding in more detail.

7 This witness has some obvious technical
8 knowledge, but Mr. Bashlykov will be the person
9 to provide more information on that for you.

10 MS. POUEYMIROU: Okay. Thank you.

11 Q. So last week we looked at a document
12 where Eleonora Presani says LibGen is an illegal
13 pirating website.

14 Were there other employees at Meta that
15 expressed concern about using LibGen because it
16 was a pirating website?

17 MS. HARTNETT: Object to the form.

18 THE WITNESS: I am not aware of others
19 that -- I am not.

20 BY MS. POUEYMIROU:

21 Q. One of the documents you were prepared
22 with was a New York Times article which